

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 410 of 1998

RANJANBEN RAMANBHAI HARIJAN

Versus

NADIAD MUNICIPALITY

Appearance:

MR YN RAVANI for Petitioner

MR YV SHAH for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of Order: 09/02/98

C.A.V. ORDER

Heard the learned counsel for the parties and
perused the special civil application.

2. Challenge has been made by the petitioner to the order of the respondent dated 7-5-1997 under which her services were terminated. The petitioner has come up with a case that she was given the appointment on compassionate ground on 2-6-1996 by the respondent in pursuance of its resolution date 23-3-1996, and as such, his services could not have been terminated.

3. The learned counsel for the petitioner admits that this appointment was given only on fixed salary of Rs.1000/-. The husband of the petitioner was in the service of the respondent and he had been discharged therefrom, as per the petitioner's case, due to illness. Later on he passed away on 12-6-1991. On being asked by the Court, the learned counsel for the petitioner is unable to state that on which date the petitioner has made an application to the respondent for giving her the appointment on compassionate ground. Further the learned counsel for the petitioner is unable to satisfy this Court how compassionate appointment can be given to the dependant of an employee of the respondent who has not died while in service but who was discharged from services on the ground of ill-health. The appointment of the petitioner has been made admittedly on 2-6-1996 i.e.

after more than about six years from the date of discharge of services of the husband of the petitioner and after about five years from the date of death of the husband of the petitioner. So it clearly comes out that the family members of the deceased employee could have managed for all these years after his retirement and death, and the petitioner has been given the appointment in these facts as if the appointment on compassionate ground is as of right or source of recruitment. Leaving apart the question whether in the facts of this case, the petitioner could have been given the appointment on compassionate ground or not, one of the objects of the provisions of giving the compassionate appointment to the dependant of the deceased employee is to give succour to the family to tide over the sudden financial crisis befallen the dependants on account of the untimely demise of its sole earning member. Giving of the appointment to the petitioner on compassionate ground by the respondent, where the petitioner is unable to disclose the date on which she prayed for the same, after the long period of death of her husband, is nothing but it amounts to another mode of recruitment of the dependant of the deceased employee which cannot be encouraged de hors the recruitment rules. The matter in question is squarely covered by the decision of the Apex Court in the case of Haryana State Electricity Board vs. Hakim Singh reported in 1997 (8) SCC 85. The entry of the petitioner itself under the pretext of the appointment on compassionate ground in the services of the respondent was illegal and contrary to the ratio of the decision of the Apex Court aforesaid, and as such, no interference can be made in the order of termination of her services.

4. In the result, this special civil application fails and the same is dismissed.

(S.K. Keshote,J)

zgs/-